

State of California  
Regional Water Quality Control Board  
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT  
May 14, 2003

ITEM: 5

SUBJECT: Referral to Attorney General: A Resolution directing the Executive Officer to request the Attorney General of the State of California to petition the appropriate court to collect \$3,000 from Castillo & Sons for failure to pay Regional Board Order No. R9-2002-0284, Administrative Assessment of Civil Liability Against Castillo & Sons, A&E Auto Recycling for Failure to Pay Annual Fees. (Tentative Resolution No. R9-2003-0164) (*Vicente Rodriguez*)

PURPOSE: To consider referring the matter to the State Attorney General. The Regional Board may decide to adopt tentative Order No. R9-2003-0164, referring the violation to the State Attorney General. If the Regional Board does not adopt the tentative resolution, the matter will be dropped and the Regional Board will take no further action at this time.

PUBLIC NOTICE: None.

DISCUSSION: The item before the Regional Board is to consider referring the matter to the State Attorney General.

Castillo & Sons operates A&E Auto Recycling facility, located at 775 Energy Way, Chula Vista, San Diego County, see the attached map (Supporting Document No. 1). This facility is an active auto wrecking facility and continues to be regulated under the State Water Resource Control Board's Industrial storm water permit.

#### **CIVIL LIABILITY**

On November 13, 2002 the Regional Board found that Castillo & Sons violated Section 13260(d) of the California Water Code, for non-payment of \$1,000 in fees occurred for a total of 3,997 days. On that date, the Regional Board adopted ACL Order No. R9-2002-0284 assessing a \$3,000 liability on condition that all outstanding annual storm water fees owed for fiscal years 2001, 2000, 1998, and 1997 are paid in full.

**CURRENT STATUS**

Castillo & Sons paid \$1,000 in outstanding annual fees, but has not satisfied the liability and the \$3,000 liability remains outstanding.

The Regional Board discussed the matter with Daniel Castillo on March 14, 2003 and issued Notice of Violation No. R9-2003-0125 on March 24, 2003 for failure to pay the ACL liability. As of April 30, 2003, Castillo & Sons have not responded. The Regional Board has exhausted all other remedies to recover the ACL assessment.

The State Water Resource Control Board's Enforcement Policy identified "failure to pay administrative civil liabilities" as one of six specific instances of non-compliance to receive consistent enforcement responses from the Regional Board. The Enforcement Policy also recommends the procedure to refer to the State Attorney General for recovery.

The State Attorney General may seek other fees and expenses in addition to the \$3,000 penalty. Castillo & Sons may also be liable for interest, attorney's fees, cost for collection proceedings and a quarterly nonpayment fee of 20 percent of the aggregate amount of the liability and the nonpayment fees unpaid at the beginning of each quarter.

The State, in the attempt of collecting payment of the ACL since the adoption of the ACL, has invested an estimated 10 hours. At an average rate of \$80 per hour, the investment by the Regional Board to collect is \$800.

**LEGAL CONCERNS:**

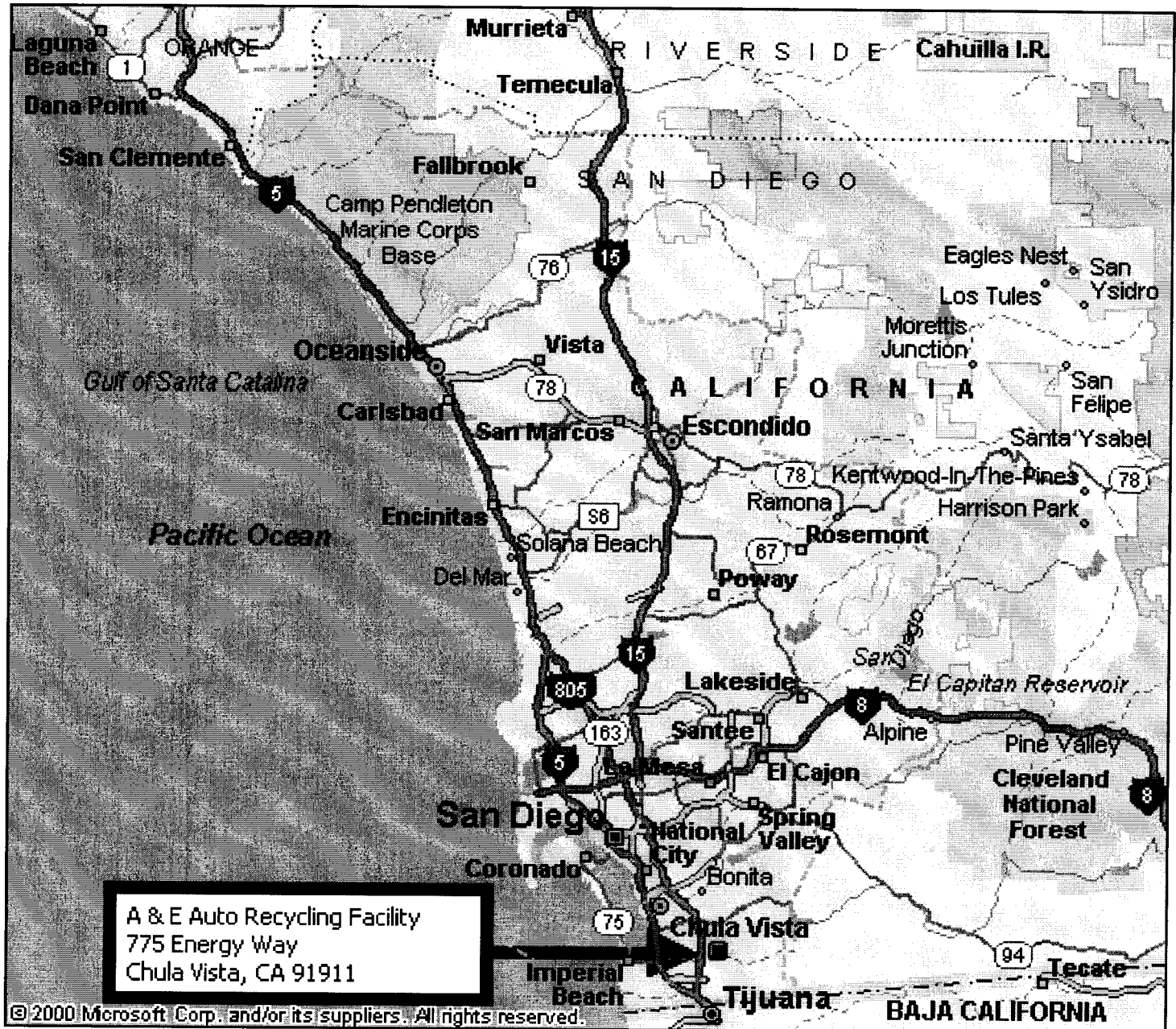
None.

**SUPPORTING  
DOCUMENTS:**

1. Location Map of Facility
2. Tentative Order R9-2003-0164
3. ACL R9-2002-0284 Dated November 13, 2002

**RECOMMENDATION:**

Adopt Tentative Order R9-2003-0164



A&E Auto Recycling Facility, Chula Vista, CA

## TENTATIVE

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION  
ORDER R9-2003-0164  
FOR  
THE REFERRAL OF  
CASTILLO & SONS, AUTO RECYCLING  
TO THE ATTORNEY GENERAL

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board) finds that:

1. Castillo & Sons owns and operates A&E Auto Recycling, an active industrial facility, located at 775 Energy Way, Chula Vista, San Diego County. Castillo & Sons continues to be regulated under State Board Order No. 97-03, *Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activity Excluding Construction Activities*.
2. On November 13, 2002, the San Diego Regional Board adopted Administrative Civil Liability (ACL) Order No. R9-2002-0284 in the amount of \$3,000 for Castillo & Sons failure to pay annual fees associated with the Industrial Storm Water Permit. The \$3,000 liability was due to be paid to the State Water Resources Control Board by December 13, 2002.
3. Castillo & Sons failed to pay the liability \$3,000, in violation of Order No. R9-2002-0284. This outstanding liability is now over 152 days over due.
4. The State Water Resource Control Board's Enforcement Policy identified "failure to pay administrative civil liabilities" as one of six specific instances of non-compliance to receive consistent enforcement responses from the Regional Board.

**IT IS HEREBY ORDERED THAT:**

1. The Regional Board Executive Officer shall request that the Attorney General petition the appropriate court to collect \$3,000 from Castillo & Sons for failure to pay Regional Board Order No. R9-2002-0284, *Administrative Assessment of Civil Liability against Castillo & Sons, A&E Auto Recycling for Failure to Pay Annual Fees*.
2. In addition to the \$3,000 penalty, Castillo & Sons may also be liable for interest, attorney's fees, cost for collection proceedings and a quarterly nonpayment fee of 20 percent of the aggregate amount of the liability and the nonpayment fees unpaid at the beginning of each quarter.

*I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on May 14, 2003.*

**TENTATIVE**

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JOHN H. ROBERTUS  
Executive Officer

ITEM 5-3



# California Regional Water Quality Control Board San Diego Region



Winston H. Hickox  
Secretary for  
Environmental  
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb9/>  
9174 Sky Park Court, Suite 100, San Diego, California 92123  
Phone (858) 467-2952 • FAX (858) 571-6972

Gray Davis  
Governor

November 21, 2002

CERTIFIED-RETURN RECEIPT REQUESTED  
7099 3400 0015 9997 0200

Roger Castillo  
Castillo & Sons  
A & E Auto Recycling  
775 Energy Way  
Chula Vista, CA 91911

File No.: 10-0012719.02

Dear Mr. Castillo:

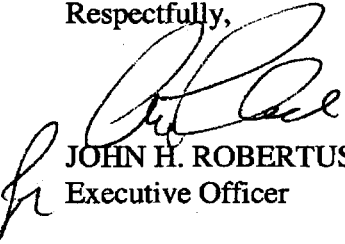
ADOPTION OF ORDER NO. R9-2002-0284, "ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY AGAINST CASTILLO & SONS, A&E AUTO RECYCLING FOR FAILURE TO PAY ANNUAL FEES"

Enclosed is a copy of Administrative Civil Liability Order No. R9-2002-0284 adopted by the California Regional Water Quality Control Board, San Diego Region (Regional Board) on November 13, 2002, for the amount of \$3,000.

In accordance with Order No. R9-2002-0284, Castillo & Sons, A&E Auto Recycling shall pay \$3,000 by December 13, 2002. Send payment to this office and make check payable to *State Water Resources Control Board*.

If you have any questions, please contact Mr. Vicente Rodriguez of my staff at (858) 627-3940.

Respectfully,

  
JOHN H. ROBERTUS  
Executive Officer

Enclosure: Administrative Civil Liability Order No. R9-2002-0284

JHR:mpm:mja:vrr

**California Environmental Protection Agency**

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>.*

Recycled Paper



Mr. Castillo

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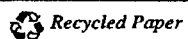
November 21, 2002

cc w/enclosure: Mr. John Richards, Esq., SWRCB  
P.O. Box 100, Sacramento, CA 95812

WDID: 9 37S012719

Castillo & Sons RB adopted R9-2002-0284 Trans.Ltr.doc

***California Environmental Protection Agency***



**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**ORDER NO. R9-2002-0284**

**ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY  
AGAINST  
CASTILLO & SONS-A&E AUTO RECYCLING  
FOR FAILURE TO PAY ANNUAL FEES**

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), finds the following:

1. Castillo & Sons has violated Section 13260(d) of the California Water Code which requires that each person for whom waste discharge requirements have been prescribed pursuant to Water Code Section 13263 shall pay an annual fee according to a fee schedule established by the State Water Resources Control Board (State Board) for the A&E Auto Recycling facility located at 775 Energy Way, Chula Vista, San Diego County. Castillo & Sons, hereinafter discharger, is regulated under State Board Order No. 97-03, *Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activity Excluding Construction Activities* (General Permit).
2. The discharger's unpaid storm annual water fees in this matter are \$250 for each of the fiscal year 2001-2002, 2000-2001, 1998-1999, and 1997-1998 for a total amount of \$1000.
3. On August 2, 2002, the Executive Officer, in *Complaint No. R9-2002-0190 for Administrative Civil Liability* (ACL) proposed imposition of civil liability in the amount of \$5,797 for the violations alleged in Complaint No. R9-2002-0190.
4. The outstanding annual fees of \$1000 for the fiscal years 2001-2002, 2000-2001, 1998-1999, and 1997-1998 annual industrial storm water permit have been paid, and this facility is now fully in compliance with the outstanding fees.
5. Consideration of the factors prescribed in California Water Code Section 13327 based upon information available to the Regional Board prior to the hearing and described in greater detail in Complaint No. R9-2002-0190 supports assessment of civil liability pursuant to Water Code section 13263 in the amount of \$3,000.

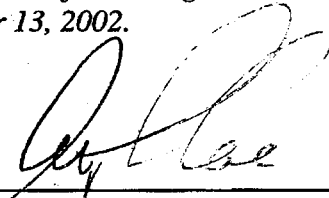
6. On September 11, 2002, Castillo & Sons proposed the following settlement terms:
  - a) Comply with California Water Code Section 13260 by paying all outstanding annual storm water fees. As of July 31, 2002, the date the Complaint was issued, the fees totaled \$1,000.00.
  - b) Agree to administrative civil liability in the amount of \$3,000.00.
  - c) Make payment of the ACL in full within 30 days of adoption of the ACL Order.
  - d) Waive the right to request a hearing before the Regional Board with regards to the violations alleged in the above referenced Complaint.
7. On November 13, 2002, the Regional Board held a hearing to solicit public participation in this matter, and considered the comments of interested persons regarding adoption of this Order.
8. The adoption of this Order is an appropriate resolution of the violations alleged in Complaint No. R9-2002-0190 because of the following reasons:
  - a. The assessment of \$3,000 is a sufficient amount of liability to deter this discharger and other dischargers from not paying annual fees in the future.
  - b. The assessment of \$3000 is consistent with the State Board enforcement assessment matrix for violations characterized as Moderate compliance significance and Minor environmental significance.
9. The Regional Board incurred costs totaling \$1,280, which includes preparation of enforcement documents, and public hearings.
10. This enforcement action is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Division 13, Chapter 3, Section 21000 et seq.) in accordance with Section 15308, Chapter 3, Title 14 of the California Code of Regulations.



November 13, 2002

**IT IS HEREBY ORDERED**, that pursuant to Section 13261(b) of the California Water Code, that civil liability be imposed on the discharger, Castillo & Sons in the amount \$3,000.

*I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of an order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on November 13, 2002.*

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*fr* **JOHN H. ROBERTUS**  
Executive Officer